Supreme Court, U.S.
FILED

97 809 NOV 13 1997

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No. ——

In The

Supreme Court of the United States

October Term, 1997

KARAM BEDI,

Petitioner,

v.

ANDRE GRONDIN
LEONARD A. RADLAUER
CARLOS E. ZELEDON,

Respondents.

On Petition For Writ Of Certiorari To The United States Court Of Appeals For The Fifth Circuit

PETITION FOR A WRIT OF CERTIORARI

KARAM BEDI
Pro se
1130 Thompson Avenue
Glendale, CA 91201
Phone (818) 842-0960

4988

QUESTION PRESENTED

Can a United States District Court, in which a totally frivolous baseless lawsuit was originally filed, without reasonable and competent inquiry, can refuse to impose sanctions, required by law, for any reason whatsoever, for causing willful injury to the judicial system?

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PETITION FOR WRIT OF CERTIORARI

Petitioner Karam Bedi respectfully prays that a Writ of Certiorari issue to review the opinion of the U.S. 5th Circuit Court of Appeals by which it affirmed the judgment of the District Court, entered in this case by the 5th Circuit on September 5, 1997.

OPINIONS DELIVERED IN THE CASE

1. The opinion of the U.S. 4th Circuit Court of Appeals issued on March 31, 1995, is reprinted in full in the appendix hereto at App. A, App. 1-App. 4.

2. The opinion of the U.S. 5th Circuit Court of Appeals issued on September 5, 1997, is reprinted in full in the appendix hereto at App. B, App. 5-App. 8.

3. The judgment issued by the United States District Court dated October 21, 1996, is reprinted in full in the appendix hereto at App. C, App. 9-App. 14.

STATEMENT OF JURISDICTION

This court has jurisdiction to review the U.S. 5th Circuit Court of Appeals opinion dated September 5, 1997, by which it affirmed the district court's judgment dated October 21, 1996, pursuant to 28 U.S.C. § 1254(1).

STATEMENT OF THE CASE

Petitioner Karam Bedi ("Bedi") signed a ten year lease with the Esplanade Mall in Kenner, Louisiana, after investing about $40,000 on the construction of the leased premises, as a condition to invest in the structure, and opened business in November, 1985, under the name of Kammas Imports, Inc. for selling imported jewelry from India and The Far East, and ladies clothing and gifts.

After about a week, another business trade-named "PLUS" owned by RIGHT-ON, INC. opened for selling ladies accessories only. and no clothing.

Bedi's lease stated that the tenant will enjoy peaceful possession during the lease term, without hindrance from the landlord.

However, Miss NA IL HONG ("Hong") manager of RIGHT-ON, INC./PLUS conspired with respondent Andre Grondin, manager of the mall, to damage Bedi's business in various ways, including not listing Bedi's business name under the "Fashion Jewelry Category" in the six mall directories although Bedi was paying every month for advertisement, because Grondin sent a letter to Bedi that according to Grondin's own interpretation, Bedi can sell only "ethnic" jewelry representative of the countries of origin, and not fashion jewelry which Hong was selling as at that time Kammas Imports, Inc. and PLUS were only two competitors for selling jewelry.

Later on, although PLUS had no use-clause in its lease to sell clothing items, Hong started selling imported ladies sequin gowns, skirt sets, tops, jackets etc. which ranged in price of $100 to $500, a piece, from India which Bedi

was selling, and which she was buying from Bedi's wholesaler to find out the price in order to under-cut the sales by resorting to unfair competition.

Hong and Grondin were keeping surveillance on Bedi's store every day and were pushing Bedi out of the Mall by using Mall security to harass.

On December 7, 1988, Bedi filed a lawsuit – case No. 373-221 "F" in the 24th Judicial District Court in Gretna, Louisiana, for damages against the Esplanade Mall and Grondin, under the Louisiana Unfair Trade Practices.

Second Amending and Supplemental petition was filed by respondent Carlos E. Zeledon, attorney, under La. R.S.51:1401, et. seq. for Unfair Trade Practices, and under La. R.S.51:137 for treble the damages, and under La. R.S.51:122 for sanctions for Combination-In-Restraint of Trade, which was illegal in the State of Louisiana, and carried three years prison term and $5,000 fine, and also for permanent injunction in the premises.

During her deposition, Hong testified that Grondin gave her [verbal] permission to sell the expensive clothing items, because of which Grondin faces the sanctions under La. R.S.51:122.

On March 31, 1989, Grondin, through his attorney – respondent Leonard A. Radlauer, in retaliation, filed a totally frivolous lawsuit – case No. 89-1438, in the United States District Court in New Orleans, Louisiana, against Bedi and Kammas Imports, Inc. for damages in the amount of $1,500,000 alleging defamation and libel.

In his complaint, Radlauer stated that Grondin was a citizen of Canada and was domiciled and residing in the

Parish of Jefferson, in the State of Louisina. Appendix D is reproduced, at App. 15-App. 17.

After Grondin and Radlauer dragged Bedi and his business in the federal court for one year, the case was dismissed on February 26, 1990, for lack of diversity jurisdiction, which means the lawsuit had been filed for improper purpose in order to harass and to increase in the cost of litigation. However, the court neither imposed sanctions on Grondin and Radlauer, nor granted attorney's fees to Bedi for paying respondent Zeledon who represented Bedi. Appendix E is reproduced at App. 18-App. 20.

Although respondent Zeledon knew from day one that the court lacked diversity jurisdiction, he did not file motion to dismiss the case and kept emptying Bedi's pockets because of his conspiracy with Grondin and Radlauer as they wanted him to do so.

Since Grondin and Radlauer knew that the federal lawsuit will eventually be dismissed for lack of diversity jurisdiction, they had already filed a parallel lawsuit case No. 386-512 "K" in the 24th Judicial District Court in Gretna, Louisiana, on August 28, 1989, i.e., six months before the federal lawsuit was dismissed on February 26, 1990, against Bedi and Kammas Imports, Inc. for damages in the amount of $1,500,000 alleging defamation and libel. Appendix F is reproduced at App. 21-App. 23.

Former United States District Judge Robert F. Collins, who presided over the hearing to dismiss the case, had a reputation of being a corrupt judge, and he was eventually convicted by the FBI for taking bribe of $100,000 from a drug dealer to reduce his sentence and the judge was sentenced to a number of years in prison.

Although the law required Judge Collins to impose sanctions he did not do so for the reasons best known to him, and thus caused a financial loss to the tune of thousands of dollars to the court by not collecting fine for causing injury to the judicial system, as a deterrent, in order to protect the judicial system against any further injury.

Respondent Zeledon, who was also an officer of the court, did not file any motion for sanctions against Grondin and Radlauer, and to re-urge the court to grant attorney's fees to Bedi because of his conspiracy with them to set up his client. In doing so, Zeledon also caused financial loss to the court.

The failure of Judge Collins to impose sanctions, as a deterrent, resulted in further harassment to Bedi and his business, and increase in the cost of litigation, which went on for another five years – from 1989 to 1993, in the second frivolous lawsuit No. 386-512 "K" referred to earlier filed in the state court.

After the federal case was dismissed, Zeledon filed a dilatory exception dated April 17, 1990, in the state case because of which the state case could not be brought to trial before case No. 373-221 "F" filed by Bedi against Grondin and the Esplanade Mall, because of Louisiana Supreme Court ruling set forth in Ortiz v. Barriffe, La. App. 4th Cir. 1988, 523 So. 2d 896, writ denied, 531 So. 2d 273, as under:

> "We hold that an action for defamation arising out of allegations made in judicial proceedings, and made against a party to those proceedings, cannot be brought until those proceedings are terminated."

In order to put Bedi and his business, on trial, in violation of the said Louisiana Supreme Court ruling, Grondin and Radlauer conspired with respondent Zeledon to put Bedi and his business, on trial, in an execution-style manner, when Radlauer signed a "false certificate" and filed into the court records with his letter dated July 15, 1991, certifying to the court that all discovery in the case had been completed and that the case was ready for trial, by jury, and also endorsed copy to Zeledon. The Clerk of court also sent order dated July 15, 1991, to Zeledon ordering him to file his pleadings within fifteen days.

Zeledon never informed Bedi about this "false certificate" nor he filed any Exception or pleadings, and thus waived all Bedi's rights, which resulted in Judge Joseph Grefer's signing an order dated July 24, 1991, scheduling the case for pre-trial hearing for February 10, 1992.

After discharging Zeledon on October 7, 1991, when Bedi pulled the folder of the state case, Bedi was stunned to see the "false certificate" filed by Radlauer and the order of Judge Grefer for pre-trial hearing.

Because of this on-going problem with the mall, Bedi was forced to close his business in March, 1992, and moved to California, leaving behind his investment of $40,000.

Bedi, then proceeding pro se, filed a motion on July 20, 1992, in the state case, for extension of time, for completing discovery, bringing to the attention of the court about the "false certificate" filed by Radlauer and Zeledon's conspiracy with Radlauer to put on trial.

By order dated July 29, 1992, Judge Martha E. Sassone granted extension of time till the discovery was completed.

Believe it or not, after twenty days after this order, Radlauer filed a second "false certificate" dated August 19, 1992, again certifying to the court that all discovery had been completed and that the case was ready for trial which was not true.

By motion dated August 31, 1992, Bedi filed an objection and requested Radlauer to file an affidavit about the accuracy of his certificate, to which he never responded.

After the said court order, five interrogatories were propounded on Grondin, Radlauer and Zeledon, dated July 20, 1992, August 26, 1992, October 24, 1992, February 22, 1993, and June 3, 1993, but they never responded to any of them.

Since they did not want to respond to the interrogatories to give discovery, they allegedly conspired with Judge Sassone to schedule a hearing to cut out the discovery process. The judge signed an order dated May 19, 1993 scheduling a hearing for June 15, 1993, without probable cause inasmuch as no motion had been filed by either party. Besides, Grondin and Radlauer had no evidence about the alleged defamation and libel, and it was a total lie to fabricate for filing the frivolous lawsuits.

The order dated May 19, 1993, was drawn in such a "hurry" that the name of the second defendant – Kammas Imports, Inc., was conspicuously missing, which makes the order itself legally invalid.

On June 21, 1993, Bedi filed motion to dismiss the case for non-compliance with the court order to give discovery. The court scheduled a hearing for August 25, 1993.

On August 23, 1993, i.e., two days before the hearing, Radlauer filed Memorandum in Opposition to dismiss, in which he flatly denied the existence of the court order dated July 29, 1992, when he stated:

> "Bedi refers to some alleged order dated July 29, 1992, but undersigned counsel cannot find this order or determine what it refers to."

Further, that:

> "His interrogatories have already been answered and *forwarded to his counsel.*"

In order to block Bedi's response, Radlauer intentionally filed his Memorandum just two days before the date of hearing, as it takes about three or four days to reach by mail in California.

Fearful of another set up, Bedi did not attend the hearing and let the court decide on the basis of the motion.

Later on, when Bedi requested and received copies of the record from the Clerk of Court, Bedi was stunned to see an "attendance sheet" signed by Zeledon which showed that Zeledon was present in court on that date, as Bedi's attorney although he had been discharged effective October 7, 1991.

Further, that no answers to the interrogatories had been filed into the court records, and none had been sent to Bedi who was proceeding pro se.

This means that Grondin and Radlauer had made arrangements to bring Zeledon to the court on August 25, 1993, in order to lie to the court to support the "false" statement made by Radlauer in his Memorandum to the effect that "His interrogatories have already been answered and forwarded to his counsel", which was not true, and it was a total fabrication.

On September 29, 1993, Radlauer filed a draft copy of his judgment denying Bedi's motion to dismiss the case, which Judge Sassone signed on September 29, 1993.

Again, in order to block Bedi's response to the draft judgment, Radlauer did not send copy to Bedi as it takes three or four days to reach by mail in California.

This judgment assigns no reasons for denying Bedi's motion to dismiss the case, and is, therefore, unconstitutional and null and void. Appendix G is reproduced at App. 24-App. 25.

> "A judgment rendered without reasons was unconstitutional. Selby v. Levee Com'rs, 14 La. Ann. 434 (1859)."

The transcript of the hearing says that:

> "The next one is No. 9 on the docket, case No. 386-512. It was just a judgment to be submitted.
>
> (Whereupon, the hearing was concluded)."

Although the judgment says – "considering the law" and "the arguments of counsel", the transcript of the hearing is blank, as there is no mention of any law, and there is no record of the arguments of counsel, and it was a total lie and fabrication.

Further, the judgment does not say that the motion to dismiss was filed for non-compliance with the court order to give discovery.

Radlauer intentionally did not mention his Memorandum in the body of the judgment in which he flatly denied the existence of the court order to give discovery.

The judgment was brought into existence with the sole intention of harassment and to obstruct justice because of actual malice to block Bedi's constitutional right to due process of law.

Because of his involvement in the Unfair Trade Practices, Grondin resigned his position with the Esplanade Mall and moved to Richmond, Virginia.

In April, 1994, Bedi filed petition in the United States District Court in Richmond, Virginia, against Grondin, case No. CA-94-221, in part, for sanctions and payment of about $18,000 in attorney's fees.

The District court dismissed the case, with prejudice, on the grounds that the court lacked subject matter jurisdiction over the amount in controversy, as under 28 U.S.C. 1332, the amount did not exceed $50,000.

After Bedi filed an appeal to the U.S. 4th Circuit Court of Appeals, the panel ruled in favor of Bedi. The opinion dated March 31, 1995, is reproduced at Appendix A at App. 1-App. 4.

Pursuant to the said ruling, Bedi filed a new complaint on August 30, 1996, in the United States District Court in New Orleans, Louisiana – case No. 96-2846 for sanctions under Rule 11 of the Federal Rules of Civil Procedure, and payment of total attorney's fees paid to Zeledon in

the federal and state cases. It is the same district court in which Grondin and Radlauer had filed case No. 89-1438 on March 31, 1989, against Bedi and his business.

Bedi brought to the attention of the district court the opinion issued by the U.S. 4th Circuit Court of Appeals, in his Memorandum in Opposition to Dismiss complaint, filed with letter dated September 19, 1996.

The district court, by judgment dated October 21, 1996, dismissed the petition for lack of subject matter jurisdiction. The judgment is reproduced at Appendix C at App. 9-App. 14.

Regarding the merits, the district court in its "Rulings on Facts" stated as under:

> "The motions of Radlauer and Zeledon. . . . contend that even if Bedi's claims had any *merit*, they would be prescribed."

Bedi had informed the district court in Richmond, Virginia, that the federal and state cases had been going on from 1989 to 1993.

Regarding the issue of "prescription" raised by the district court as also by Radlauer and Zeledon, the 4th Circuit panel while ruling in favor of Bedi to file a new complaint, did not say that Bedi cannot file new complaint because of "prescription" which has now been raised.

Further, the district court's ruling on *FACTS* to the effect that:

> "The court, *in that matter,* did not, however, impose sanctions against plaintiff Grondin or his counsel Radlauer",

the court put the responsibility on former Judge Collins that Judge Collins should have imposed the sanctions. Judge Collins did not impose sanctions because he abused his bench.

This does not mean that another judge of the same court cannot impose sanctions required by law.

Bedi filed an appeal to the U.S. 5th Circuit Court of Appeals against the dismissal by the district court of his petition, for lack of subject matter jurisdiction – case No. 96-31215.

The 5th Circuit panel, by opinion dated September 5, 1997, affirmed the district court's dismissal for lack of subject matter jurisdiction, and directed Bedi to file a Petition for Writ of Certiorari with the United States Supreme Court. Appendix B is reproduced at App. 5-App. 8.

REASONS FOR GRANTING THE WRIT

The dismissal, by the district court, for lack of subject matter jurisdiction, is in *direct conflict* with the opinion issued by U.S. 4th Circuit Court of Appeals panel because of the following:

> "When a motion to dismiss is based on lack of subject matter jurisdiction, the district court's inquiry is limited to determining whether the challenged pleadings set forth allegations sufficient to show the court that it has subject matter jurisdiction over the case. The pleadings are construed in a light most favorable to the party opposing the motion. Goldstar (Panama) S.A. v.

United States, 967 F.2d 965, 967 (4th Cir), cert. denied, 113 S. Ct. 411 (1992)."

Further, as stated by the district court in its "Rulings on Facts" respondents Radlauer and Zeledon themselves have contended that there is *merit* in Bedi's claims. Therefore, the dismissal by the district court for lack of subject matter jurisdiction, *was not a decision on the merits*. See Leaf v. Supreme Court of Wisconsin, 979 F.2d. 589, 595 (7th Cir. 1992), cert. denied, 113 S. Ct. 2417 (1993).

CONCLUSION

The rules established by the United States Supreme Court require that the district court must impose sanctions for willful frivolous filing. If the district court did not impose sanctions then, it must do it now.

For the reasons stated earlier, and for this reason also, the Writ of Certiorari should be granted.

Respectfully submitted,

KARAM BEDI
Pro se
1130 Thompson Avenue
Glendale, CA 91201
Phone (818) 842-0960

Dated November 12, 1997

APPENDIX A

UNPUBLISHED

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

KARAM BEDI, *Plaintiff-Appellant,* v. ANDRE GRONDIN, *Defendant-Appellee.*	No. 94-1912

Appeal from the United States District Court
for the Eastern District of Virginia, at Richmond.
Robert R. Merhige, Jr., Senior District Judge.
(CA-94-221)

Submitted: January 31, 1995

Decided: March 31, 1995

Before HAMILTON and WILLIAMS, Circuit Judges,
and PHILLIPS, Senior Circuit Judge.

Affirmed as modified by unpublished per curiam opinion.

COUNSEL

Karam Bedi, Appellant Pro Se. Charles Stephen Setliff, MAYS & VALENTINE, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See I.O.P. 36.5 and 36.6.

OPINION

PER CURIAM:

This appeal is taken by plaintiff Karam Bedi from the dismissal of his action against Andre Grondin. We modify the dismissal to reflect that it is without prejudice, and affirm the dismissal as modified.

Bedi, a California resident proceeding pro se, alleged that he had been damaged by intentionally harassing lawsuits filed by Grondin. Bedi sought compensatory damages, attorney's fees, and $5 million in punitive damages.

Grondin filed a motion to dismiss for lack of subject matter jurisdiction, lack of personal jurisdiction, improper venue, and failure to state a claim upon which relief could be granted. The district court dismissed the suit on the grounds that the court lacked personal jurisdiction over Grondin and lacked subject matter jurisdiction over the amount in controversy. It is from this order that Bedi appeals.

When a motion to dismiss is based on lack of subject matter jurisdiction, the district court's inquiry is limited to determining whether the challenged pleadings set forth allegations sufficient to show the court that it has subject matter jurisdiction over the case. The pleadings are construed in a light most favorable to the party opposing the motion. *Goldstar (Panama) S.A. v. United States*, 967 F.2d 965, 967 (4th Cir.), *cert. denied*, 113 S. Ct. 411

(1992). We review the district court's dismissal for lack of subject matter jurisdiction de novo. *Tillman v. Resolution Trust Corp.*, 37 F.3d 1032, 1034 (4th Cir. 1994).

After properly finding that Bedi could not recover punitive damages under the causes of action pled, the district court held that the remaining requests for compensatory damages and attorney's fees did not satisfy the requirements of 28 U.S.C. § 1332 (1988). Under § 1332, the matter in controversy must exceed the sum or value of $50,000 for a district court to have diversity jurisdiction.

The district court states that Bedi's complaint references just two relevant compensatory damage amounts, both for attorney's fees, totalling only $18,000. However, Bedi contends that he has additionally alleged that Grondin's actions forced him to close his business, resulting in a loss of a $40,000 investment, recoverable under Fed. R. Civ. P. 11. Thus, Bedi asserts he has satisfied the amount in controversy requirement.

Rule 11, however, does not create a private right of action, and a litigant may not use Rule 11 as a substitute for tort damages. *See Port Drum Co. v. Umphrey*, 852 F.2d 148, 149 (5th Cir. 1988); *see also Business Guides, Inc. v. Chromatic Communications Enters.*, 498 U.S. 533, 553 (1991) (Rule 11 does not create a federal common law claim of malicious prosecution). Therefore, the $40,000 loss alleged by Bedi cannot be considered in determining whether Bedi satisfied the amount in controversy requirement. *See St. Paul Mercury Indem. Co. v. Red Cab Co.*, 303 U.S. 283, 289 (1938) (where a complaint prays for damages which are legally certain not to be recoverable, dismissal is justified). Without the allegation of the $40,000

loss, Bedi's complaint does not meet the amount in controversy requirement.*

However, since dismissal for lack of subject matter jurisdiction is not a decision on the merits, dismissal should be without prejudice to Bedi's right to file a new complaint with proper jurisdictional allegations. *See Leaf v. Supreme Court of Wisconsin,* 979 F.2d 589, 595 (7th Cir. 1992), *cert. denied,* 113 S. Ct. 2417 (1993). Therefore, we modify the district court's order to reflect that the dismissal is without prejudice and affirm the order as modified. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED AS MODIFIED

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* Because we find that the district court properly dismissed Bedi's complaint for lack of subject matter jurisdiction, we do not find it necessary to review the alternate ground for dismissal, lack of personal jurisdiction.

APPENDIX B

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-31215
Summary Calendar

KARAM BEDI,

Plaintiff-Appellant,

versus

ANDRE GRONDIN, LEONARD A. RADLAUER, and CARLOS E. ZELEDON,

Defendants-Appellees.

Appeal from the United States District Court
for the Eastern District of Louisiana
(96-CV-2846-E)

(Filed Sep. 05, 1997)

Before SMITH, BARKSDALE, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

Karam Bedi, *pro se*, appeals from the district court's dismissal of his complaint for lack of subject matter jurisdiction. We affirm for essentially the reasons stated by the district court.

---

*Pursuant to 5TH CIR. R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

Andre Grondin's motion to dismiss, Bedi's motion for hearing en banc, and Leonard A. Radlauer's and Carlos E. Zeledon's motion for sanctions are DENIED.

AFFIRMED; MOTIONS DENIED

APPENDIX C

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

CHARLES R. FULBRUGE III
CLERK

TEL. 504-589-6514
600 CAMP STREET
NEW ORLEANS, LA 70130

September 5, 1997

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW

Regarding: Fifth Circuit Statement on Petitions for Rehearing or Rehearing En Banc

No. 96-31215 Bedi v. Grondin
USDC No. 96-CV-2846-E

Enclosed is a copy of the court's decision, and judgment has been entered under FRAP 36. (However, the opinion may yet contain typographical or printing errors which are subject to correction.)

FRAPs 39 through 41, and Local Rules (LR) 35, 39, and 41 govern costs, rehearings, and mandates. **New LR's 35.2.10 and 40 require that a copy of the opinion or order sought to be reviewed shall be bound with the petition for rehearing or suggestion for rehearing en banc as an appendix but shall not be marked or annotated.** Please read carefully the Internal Operating Procedures (IOP's) following FRAP 40 and LR 35 for a discussion of when a rehearing may be appropriate, the legal standards applied and sanctions which may be imposed if a non-meritorious suggestion for en banc is made.

Direct Criminal Appeals. LR 41 provides that a motion for a stay of mandate under FRAP 41 shall not be granted simply upon request. The petition must set forth good cause for a stay or clearly demonstrate a substantial question is to be presented to the Supreme Court. Otherwise, the motion may be denied and the mandate issued immediately.

Pro Se Cases. If you were unsuccessful in the district court and/or on appeal, and will be considering filing a petition for *certiorari* in the United States Supreme Court, you do not need to file a motion for stay of mandate under FRAP 41. The issuance of the mandate does not affect the time, or your right, to file such a petition.

The judgment entered provides that plaintiff-appellant pay to defendants-appellees the costs on appeal.

Sincerely,

CHARLES R. FULBRUGE III,
Clerk

By: /s/ Yolanda Jett
Yolanda Jett, Deputy
Clerk

Enclosure
Mr Carlos E Zeledon
Mr Leonard A Radlauer
Mr Andre Grondin
Mr Karam Bedi

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

KARAM BEDI	**CIVIL ACTION**
versus	**NO. 96-2846**
ANDRE GRONDIN, ET AL	**SECTION: E/5**

RULINGS ON MOTIONS

Defendant Andre Grondin, Leonard Radlauer and Carlos Zeledon have each filed motions to dismiss in this matter on the basis that plaintiff's complaint lacks subject matter jurisdiction on its face, fails to state a claim upon which relief can be granted and is prescribed. Plaintiff, Karam Bedi, opposes the motions.

FACTS

On August 30, 1996, Plaintiff Karam Bedi, proceeding **pro se**, filed in this Court his "PETITION FOR SANCTIONS AND PAYMENT OF TOTAL ATTORNEY'S FEES UNDER RULE 11 OF THE FEDERAL RULES OF CIVIL PROCEDURE." Bedi's complaint appears to have originated out of an action for slander filed against him by Andre Grondin in this court in 1989, civil action # 89-1438. Attorney Leonard Radlauer represented Grondin in the slander suit while Attorney Carlos Zeledon represented Bedi. Zeledon's efforts on behalf of Bedi were successful in that the case was dismissed due to lack of diversity jurisdiction. The court in that matter did not, however, impose sanctions against plaintiff Grondin or his counsel Radlauer.

Although somewhat confusing and difficult to follow, Bedi seems to be alleging in this current complaint that Grondin's suit against him almost eight years ago was malicious because Grondin and Radlauer both knew that the suit would eventually be dismissed for lack of subject matter jurisdiction. Bedi's allegations against Zeledon, the attorney who defended Bedi in the slander suit, are apparently based on the fact that Zeledon failed to re-urge the court to impose sanctions against Grondin and his counsel Radlauer for bringing a frivolous lawsuit.

In response to Bedi's complaint, co-defendants Grondin, Radlauer and Zeledon have all filed motions to dismiss. Grondin's motion urges that the complaint lacks subject matter jurisdiction on its face, lacks in personam jurisdiction and fails to state a claim upon which relief can be granted. The motions of Radlauer and Zeledon, in addition to urging the claims stated above, contend that even if Bedi's claims had any merit, they would be prescribed. In addition, Radlauer and Zeledon request that this Court assess Rule 11 sanctions against Bedi for undue harassment.

ANALYSIS

Federal district courts possess diversity jurisdiction over cases where the matter in controversy exceeds the sum or value of $50,000.00, exclusive of interests and costs, and is between citizens of different states. **28 U.S.C. § 1332.** The party invoking the diversity jurisdiction of the federal district court has the burden of showing that the exercise of jurisdiction is proper; however, a good

faith allegation by plaintiff that the amount in controversy exceeds the jurisdictional amount of $50,000 is sufficient to satisfy this burden. ***L&L Oil Co., Inc. v. Hugh Mac Towing Corp.,*** **859 F.Supp. 1002 (E.d. La. 1994).** When the legitimacy of this allegation is challenged by the court or the opposing party, the party invoking jurisdiction must prove the requisite amount by a preponderance of the evidence. ***State of Mo. ex rel. Pemiscot County, Mo. v. Western Sur. Co.,*** **51 F.3d 170 (8th Cir. 1995).**

In addition to diversity jurisdiction, **28 U.S.C. § 1331** provides that "[t]he district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States." This statute confers that which is commonly referred to as "federal question" jurisdiction. Federal question jurisdiction is governed by the "well-pleaded complaint rule", providing that federal question jurisdiction exists only when a federal question is presented on the face of the plaintiffs' complaint. ***LaFunìa v. Louisiana Health Service Indem. Co.,*** **826 F.Supp. 1017 (W.D. La. 1993).**

In the instant matter, Bedi's complaint failed to allege any basis for jurisdiction whatsoever. The only federal statute referred to was Rule 11 of the Federal Rules of Civil Procedure. Rule 11 does not provide for a civil cause of action under federal law, therefore, this Court could only assume that Bedi was attempting to invoke diversity jurisdiction.

Although complete diversity between the parties was alleged on the face of Bedi's complaint, no amount for damages was specified. Mindful of the fact that Bedi was

proceeding **pro se**, on September 26, 1996, this Court issued an order directing Bedi to "present evidence *by written memorandum, with attached exhibits, if desired,* demonstrating that the matter in controversy exceeds the sum or value of 50,000. . . . " Bedi has not done so. In responding to this Court's order, Bedi stated that:

> Since this is a petition for sanctions under Rule 11 of the Federal Rules of Civil Procedure and payment of total attorney's fees for the violation which has already taken place, there is no question of the matter in controversy exceeding the sum or value of $50,000 pursuant to 28 U.S.C. §1332, which is not applicable in this case.

In light of the fact that the amount in controversy has been challenged by defendants, this general allegation is not sufficient. In response to this Court's order, Bedi has still failed to even specify any damage amount sought, much less provide proof of same by a preponderance of the evidence. Bedi has not met his burden of proof. As such, this Court finds that it lacks subject matter jurisdiction over the matter at bar.

Further, although his complaint in no way makes clear the causes of action he is asserting, Bedi brings his suit some eight years after the dismissal of Grondin's lawsuit against Bedi. Any applicable prescriptive and peremptive [sic] periods have most certainly accrued. Having found that this Court lacks subject matter jurisdiction, however, the Court need not address these issues.

The Court must now address the request that sanctions be imposed against Bedi under Rule 11. According to Radlauer and Zeledon, the motivation of Bedi was not

to recover, but rather to harass and embarrass. Under Rule 11, the Court has discretion regarding sanctions. Bedi is proceeding **pro se**. He has no working knowledge of the procedural rules or substantive laws. Although time and effort have been spent addressing this matter, it is the opinion of this Court that no sanctions be imposed.

Accordingly, for the above and foregoing reasons,

IT IS ORDERED that the motions of Andre Grondin, Carlos Zeledon and Leonard Radlauer to dismiss this case due to lack of subject matter jurisdiction be and are hereby **GRANTED**.

New Orleans, Louisiana, October 21, 1996.

/s/ Marcel Livaudais Jr.
MARCEL LIVAUDAIS, JR.
United States District Judge

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

KARAM BEDI	**CIVIL ACTION**
versus	**NO. 96-2846**
ANDRE GRONDIN	**SECTION: E/5**

JUDGMENT

Considering the record, the applicable law, the Court's ruling on motions, and for the reasons assigned,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that there be judgment in favor of defendants Andre Grondin, Leonard Radlauer and Carlos Zeledon, and against plaintiff Karam Bedi, **DISMISSING** his complaint with costs.

New Orleans, Louisiana, OCTOBER 21, 1996.

/s/ Marcel Livaudais Jr.
MARCEL LIVAUDAIS, JR.
United States District Judge

APPENDIX D

United States District Court
EASTERN DISTRICT OF LOUISIANA

ANDRE GRONDIN SUMMONS IN A CIVIL ACTION

v. CASE NUMBER: 89-1438

KARAM BEDI AND KAMMA'S IMPORTS, INC.

TO: (Name and Address of Defendant)
Karam Bedi
Kamma's Imports
1401 W. Esplanade Avenue
Kenner, LA 70065

YOU ARE HEREBY SUMMONED and required to file with the Clerk of this Court and serve upon PLAINTIFF'S ATTORNEY (name and address)

Leonard A. Radlauer
717 St. Charles Avenue
New Orleans, LA 70130

an answer to the complaint which is herewith served upon you, within twenty (20) days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

/s/ Illegible
CLERK

MAR 31 1989
DATE

/s/ Illegible
BY DEPUTY CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

ANDRE GRONDIN	CIVIL ACTION
VERSUS	NUMBER: 89-1438
KARAM BEDI AND KAMMA'S IMPORTS, INC.	SECTION:
	PLAINTIFF REQUESTS TRIAL BY JURY

PETITION FOR DAMAGES

The petition of Andre Grondin, a person of the full age of majority, a citizen of Canada, domiciled and residing in the Parish of Jefferson, State of Louisiana, respectfully represents:

I.

Made defendants herein are:

a. Karam Bedi, a person of the full age of majority domiciled in the State of Louisiana;

b. Kamma's Imports, Inc., a corporation authorized to do and doing business in the State of Louisiana.

II.

Andre Grondin is employed by Cadillac Fairview Shopping Centers (U.S.) Limited as the manager of The Esplanade. Defendants have repeatedly slandered plaintiff, libeled him, and sought to destroy his professional career with baseless accusations.

III.

Defendants have maliciously made false and defamatory statements against plaintiff which have resulted in damage to the plaintiff in the true and full sum of ONE MILLION FIVE HUNDRED THOUSAND AND NO/100 ($1,500,00.) [sic] DOLLARS.

IV.

Plaintiff desires and is entitled to a trial by jury.

WHEREFORE, plaintiff, Andre Grondin, prays that defendants be served with a copy of this Petition for Damages, that defendants be cited to appear and answer within the delays allowed by law, and that after due proceedings there be judgment in favor of plaintiff and against defendants for the full and true sum of ONE MILLION FIVE HUNDRED THOUSAND AND NO/100 (DOLLARS), for all costs of these proceedings, for trial by jury, and for all other appropriate legal and equitable relief.

Respectfully submitted:

/s/ Leonard A. Radlauer
Leonard A. Radlauer
717 St. Charles Avenue
New Orleans, LA 70130
(504) 581-2400
Bar No. 11059

APPENDIX E

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

MINUTE ENTRY
February 23, 1990
COLLINS, J.

ANDRE GRONDIN	CIVIL ACTION
VERSUS	NO. 89-1438
KARAM BEDI and KAMMA'S IMPORTS, INC.	SECTION "C"

****

Defendants, Karam Bedi and Kamma's Imports, Inc., move the Court for summary judgment or, in the alternative, to dismiss the Complaint of plaintiff, Andre Grondin. The Motion to Dismiss is GRANTED due to the lack of diversity jurisdiction. Plaintiff's Complaint alleges that plaintiff is "a citizen of Canada, domiciled and residing in the Parish of Jefferson, State of Louisiana, . . . " Plaintiff's Complaint, p.1.

Judicial Improvements and Access to Justice Act, Act of Nov. 19, 1988, Pub. L. 100-702, 102 Stat. 4642, amended 28 U.S.C. § 1332(a) to provide that for the purposes of diversity jurisdiction, resident aliens are deemed residents of the state in which they are domiciled. This amendment destroys diversity in cases involving American citizens and permanent resident aliens domiciled in the same state. See C. Wright, A. Miller & E. Cooper, 13B *Federal Practice & Procedure* § 3604 (2nd Ed. 1984 & Supp. 1989). Since plaintiff has alleged citizenship in Canada

and domicile in Louisiana, the Court GRANTS defendant's Motion to Dismiss plaintiff's Complaint with prejudice.

/s/ Robert F. Collins
ROBERT F. COLLINS
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

ANDRE GRONDIN	CIVIL ACTION
VERSUS	NO. 89-1438
KARAM BEDI and KAMMA'S IMPORTS, INC.	SECTION "C"

****

JUDGMENT

Considering the Court's Minute Entry of February 23, 1990,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that there be JUDGMENT in favor of defendants, Karam Bedi and Kamma's Imports, Inc., and against plaintiff, Andre Grondin, dismissing the Complaint with prejudice, with each party bearing their own costs.

New Orleans, Louisiana, this the 26th day of February, 1990.

LORETTA G. WHYTE, CLERK OF COURT

APPROVED AS TO FORM:

/s/ Robert F. Collins
ROBERT F. COLLINS
UNITED STATES
DISTRICT JUDGE

By: /s/ Denny P. Descant
Denny P. Descant
Chief Deputy Clerk

APPENDIX F

24TH JUDICIAL DISTRICT COURT
FOR THE PARISH OF JEFFERSON

STATE OF LOUISIANA

NUMBER: 386-512 DIVISION " " DOCKET NO.

ANDRE GRONDIN

VERSUS

KARAM BEDI AND KAMMA'S IMPORTS, INC.

PETITION FOR DAMAGES

The petition of Andre Grondin, a person of the full age of majority, a citizen of Canada, domiciled and residing in Mechanicsville, Virginia, respectfully represents:

I.

Made defendants herein are:

a. Karam Bedi, a person of the full age of majority domiciled in the State of Louisiana;

b. Kamma's Imports, Inc., a corporation authorized to do and doing business in the Parish of Jefferson, State of Louisiana.

II.

Andre Grondin was employed by Cadillac Fairview Shopping Centers (U.S.) Limited as the manager of The Esplanade. Defendants have repeatedly slandered plaintiff, libeled him, and sought to destroy his professional career with baseless accusations.

III.

Defendants have maliciously made false and defamatory statements against plaintiff which have resulted in damage to the plaintiff in the sum of ONE MILLION FIVE HUNDRED THOUSAND AND NO/100 ($1,500,000.00) DOLLARS.

IV.

Plaintiff desires and is entitled to a trial by jury.

WHEREFORE, plaintiff, Andre Grondin, prays that defendants be served with a copy of this Petition for Damages, that defendants be cited to appear and answer within the delays allowed by law, and that after due proceedings there be judgment in favor of plaintiff and against defendants for the amount specified herein, for all costs of these proceedings, and for all other appropriate legal and equitable relief.

Respectfully submitted:

/s/ Leonard A. Radlauer
Leonard A. Radlauer
717 St. Charles Avenue
New Orleans, LA 70130
(504) 581-2400
Bar No. 11059

PLEASE SERVE

KARAM BEDI
1401 West Esplanade Avenue
Kenner, LA 70065

KAMMA'S IMPORTS, INC.
through a corporate officer
P. O. Box 641025
Kenner, LA 70064

APPENDIX G

24TH JUDICIAL DISTRICT COURT
FOR THE PARISH OF JEFFERSON

STATE OF LOUISIANA

NO. 386-512 DIVISION "K" DOCKET NUMBER

ANDRE GRONDIN

VERSUS

KARAM BEDI AND KAMMAS IMPORTS, INC.

FILED: September 29, 1993 Illegible
DEPUTY CLERK

JUDGMENT

The Motion for Dismissal of Plaintiff's Lawsuit by defendants, Karam Bedi and Kammas Imports, Inc., came for hearing on August 25, 1993.

After considering the law, the pleadings and exhibits, and the arguments of counsel,

IT IS ORDERED, ADJUDGED, and DECREED that the aforesaid Motion for the Dismissal of Plaintiff's Lawsuit filed herein by defendants, Karam Bedi and Kammas Imports, Inc., be and they hereby are denied.

Gretna, Louisiana, this 29 day of September, 1993.

/s/ Martha E. Sassone
JUDGE

Sept. 28, 93

J. L. Schouest

A TRUE COPY OF THE ORIGINAL
ON FILE IN THIS OFFICE

/s/ J. L. Schouest
DEPUTY CLERK
24TH JUDICIAL DISTRICT COURT
PARISH OF JEFFERSON, LA.